

April 5, 2007

PRESENT: C. E. Swortzel, Chairman
J. W. Callison, Jr., Vice Chairman
D. A. Brown
G. A. Coyner, II
S. F. Shreckhise
J. R. Wilkinson, Zoning Administrator & Secretary
S. K. Shiflett, Zoning Technician I

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, April 5, 2007, at 9:30 A.M., in the County Government Center, Verona, Virginia.

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VIEWINGS

The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- **Russell Sours, Agent for Sours Properties, LLC - Special Use Permit**
- **Jim Davis and Ben Baldwin - Special Use Permit**
- **R. Brian Fitzgerald - Special Use Permit**
- **Larry Allanson, Agent for Allanson Real Estate, LLC - Variance**

At each location, the Board observed the site and the premises to be utilized. The Board also viewed the development and the character of the surrounding area.

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Chairman

Secretary

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PRESENT: C. E. Swortzel, Chairman
 J. W. Callison, Jr., Vice Chairman
 D. A. Brown
 G. A. Coyner, II
 S. F. Shreckhise
 J. R. Wilkinson, Zoning Administrator & Secretary
 S. Rosenberg, County Attorney
 S. K. Shiflett, Zoning Technician I
 B.B. Cardellicchio-Weber, Administrative Secretary

Absent: None

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, April 5, 2007, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Vice Chairman Callison moved that the minutes from the March 1, 2007 meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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RYAN J. CAMPBELL - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Ryan J. Campbell, for a Special Use Permit to have firewood, landscaping, and lawn care business on property owned by Martha L. or Kenneth W. Campbell, located on the south side of Howardsville Turnpike (Route 610) directly across from the intersection of Pine City Lane and Howardsville Turnpike (Route 610) in the South River District.

Mr. Wilkinson stated that Mr. Campbell has withdrawn this request.

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JIM DAVIS AND BEN BALDWIN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jim Davis and Ben Baldwin, for a Special Use Permit to have monthly horse shows on property owned by Verna Rowe Doyle (Life), located in the southern quadrant of the intersection of Lofton Road (Route 666) and Old Back Road in the Riverheads District.

Mr. Ben Baldwin stated that he has been working with Mr. Davis in order to have monthly horse shows on the property. He stated that Ms. Doyle is Mr. Davis' mother. He stated that they have farmed the property for many years. He stated that the arena is a newly built inside arena. He stated that they would like to have small horse shows. He stated that they have ample parking. He stated that they do not plan on providing food during the shows. He stated that they would supply water for the animals and the people attending the event. He stated that everything would be conducted safely. He stated that there would be minimal additional traffic. He stated that the noise would be limited to inside the arena. He stated that the arena is not noticeable from the neighboring properties. He stated that there would not be any spotlights at the site.

Ms. Brown asked if this would be a one (1) day or two (2) day event?

Mr. Baldwin stated that currently the events would take place in one (1) day. He stated that they do not have the facilities for people to stay overnight.

Ms. Brown asked if there would be bleachers inside the arena?

Mr. Baldwin stated that the customers would bring in their own chairs.

Chairman Swortzel asked if this would be a free admission or paid admission?

Mr. Baldwin stated that the admission would vary. He stated that at some point they may sponsor shows themselves, but they will be charging a flat fee for the use of the arena.

Chairman Swortzel asked if they are going to lease the arena out to other organizations to have the shows?

Mr. Baldwin stated yes.

Chairman Swortzel asked what type of events would the applicant have in the arena?

Mr. Baldwin stated that the events would primarily be for western horse events. He stated that if someone wants to come in and do jumping or any of the English style events, they are welcome.

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Ms. Brown asked if there would only be customers in Virginia attending?

Mr. Baldwin stated that the spectators may come from many miles away to see the shows.

Mr. Coyner stated that the building is very substantial. He asked if it is used for something else when there are no shows at the site?

Mr. Baldwin stated that it is a horse training facility and will be used on a daily basis for horse training.

Chairman Swortzel asked how many people would attend the events?

Mr. Baldwin stated that they would have no more than 200 or 250 people per show.

Mr. Wilkinson asked if there would be restrooms in the riding arena?

Mr. Baldwin stated that there is a restroom adjacent to the barn. He stated that they will be expanding the septic so that there would be separate facilities for men and women.

Mr. Wilkinson asked if the applicant had been in contact with the Health Department to expand the septic?

Mr. Baldwin stated that the Health Department stated that they would prefer separate facilities other than just the one (1) toilet that is in there now.

Mr. Wilkinson stated that the Board has had similar requests within the last year and those applicants were required to expand their septic. He stated that the Health Department would be part of the Board's approval process.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Chairman Swortzel stated that the Board visited the site this morning. He stated that it is a nice facility and there is adequate parking.

Vice Chairman Callison stated that this is in an ideal location. He stated that they have worked with horses for a long time. He moved that the request be approved with the following conditions:

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Pre-Conditions:

1. Obtain Health Department approval and provide a copy to Community Development Department.
2. Submit updated BZA site plan showing proposed parking.

Operating Conditions:

1. Be limited to twelve (12) events per year.
2. Hours of operation be 9:00 a.m. to 9:00 p.m.

Ms. Brown seconded the motion, which carried unanimously.

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RUSSELL SOURS, AGENT FOR SOURS PROPERTIES, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Russell Sours, agent for Sours Properties, LLC, for a Special Use Permit to add an RV storage area, increase the customer vehicle parking area, display a U-Haul vehicle out front, increase the number of employees, and add a towing business with a vehicle storage area on property they own, located on the east side of Tinkling Spring Road (Route 608), approximately .2 of a mile north of the intersection of Tinkling Spring Road (Route 608) and Yoder Circle in the South River District.

Mr. Russell Sours stated that he would like to increase the parking to eight (8) spaces for employees and add ten (10) spaces for the customers. He stated that he would like to store the U-Haul truck out front and to have RV storage along the upper building. He stated that he would like to also have extra spaces in the circle for RV storage. He is also asking to store towed vehicles in the fenced in area. He stated that he already has an office at the site.

Mr. Coyner asked if the tow truck business is his own business?

Mr. Sours stated that he knows a gentleman that has a rollback that tows vehicles for the state police. He stated that this gentleman has his own business. He stated that he does not tow for the applicant.

Ms. Brown asked if he would have office space?

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Mr. Sours stated that he does not have office space at the location. He stated the towed vehicles are put along the back side. He stated that after the insurance company looks at the vehicle, they are taken away.

Mr. Coyner asked what the vehicles were in behind the turkey house?

Mr. Sours stated that these vehicles were outside. He did not have tags on them. He stated that he was going to store them inside the building.

Mr. Coyner asked if he has a Special Use Permit to do that?

Mr. Wilkinson stated no, not at this time. He stated that the applicant would need to add that to the Special Use Permit. He stated that the applicant would need to go before the Board and the request would need to be advertised if the applicant would like to use the rest of the building or the building in the back to be used for anything else. He stated that if the applicant would like to use that for storage, it would need to be advertised and added to the permit.

Chairman Swortzel stated that it is against the ordinance to store vehicles in the building without a Special Use Permit.

Mr. Sours stated that he would also like to increase the number of employees to eight (8).

Mr. Coyner asked how many he had now?

Mr. Sours stated seven (7) employees currently. He stated that the Health Department would be fine with eight (8) employees. He stated that staff is recommending six (6) employees.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Chairman Swortzel stated that the Board viewed the site this morning. He stated that the site is neat and orderly. He stated that the applicant would need to make application to store vehicles in the turkey house.

Mr. Coyner stated that he is unsure about someone other than the applicant operating the towing business which is totally separate from the applicant's own business. He asked if the Board can legally act on this request?

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Mr. Wilkinson stated that the towing business would need to be operated under Mr. Sours' control. He stated that the individual can also apply for a separate permit under their own name. He stated that Mr. Sours would be responsible for the Special Use Permit because he is the property owner.

Mr. Sours stated that the towing business provides the state police a place to store the vehicles until the insurance companies are ready for the vehicles.

Mr. Rosenberg stated that he has not had an opportunity to review the request. He stated that the Board can table the request. He stated next month he will be in a position to advise the Board whether it is legal to issue the Special Use Permit for the towing and storage yard or whether that individual would need to apply.

Mr. Coyner moved that the request be tabled until the May 3, 2007 meeting.

Ms. Brown seconded the motion, which carried unanimously.

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MARK HATTER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Mark Hatter, for a Special Use Permit to add motor vehicle sales on property he owns, located on the south side of Serenity Lane, just east of the intersection of Serenity Lane and Mt. Torrey Road (Route 664) in the South River District.

Mr. Mark Hatter stated that he is requesting to add motor vehicle sales to his current Special Use Permit. He stated that he would be working by himself and he will be selling the vehicles on E-bay. He stated that he would like to get his dealer's license. He stated that he will be purchasing lightly hit vehicles that have been involved in fender benders.

Chairman Swortzel asked if the vehicles would be fixed in the shop?

Mr. Hatter stated only fender benders would be fixed in the shop.

Mr. Coyner stated that the applicant would like to add this to his current permit. He asked if he is going to have ten (10) vehicles for sale at the site?

Mr. Hatter stated that the Department of Motor Vehicles requires ten (10) spaces be available. He stated that he may have one (1) or two (2) vehicles there a month. He stated that he needs to have the spaces even though he is not using them.

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Vice Chairman Callison asked if the vehicles would be on display?

Mr. Hatter stated no. He stated that he would have them on display on the internet. He stated that the only time would be when the customers come to pick up the vehicles. He stated that he would own all of the vehicles that are located on the lot.

Mr. Coyner stated that the Board has never received a complaint or problem with the site thus far.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Mr. Coyner stated that the applicant has a good track record. He moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

- 1. Be allowed to display up to ten (10) vehicles for sale.
- 2. No junk or inoperable vehicles or parts of vehicles kept outside.
- 3. Conditions of Special Use Permit #01-34 remain in place.

Ms. Brown seconded the motion, which carried unanimously.

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SAMUEL A. AND WILLIAM HAMILTON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Samuel A. and William Hamilton, for a Special Use Permit to construct an accessory building over seven hundred square feet in size and over fifteen feet in height on property owned by Ellena Fay Armstrong, Estate c/o Samuel A. Hamilton, Executive, located on the north side of

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Cedar Hill Lane, approximately .1 of a mile northwest of the intersection of Cedar Hill Lane and Lee Highway (Route 11) in the Beverley Manor District.

Mr. Samuel Hamilton stated that the building will be used strictly for their farm. He stated that they cut timber on the property. He stated that they would not be adding any more equipment. He stated that they would like to have the building to keep equipment out of site and out of the weather.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Forester Wright, 85 Mountain View Drive, stated that the building would be behind his house. He stated that he has no objections to the request.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Ms. Brown moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

- 1. Obtain Building Permit before starting construction.
- 2. Building size be limited to a maximum of 30' x 36'.
- 3. Permit be transferable.

Mr. Shreckhise seconded the motion, which carried unanimously.

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R. BRIAN FITZGERALD - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by R. Brian Fitzgerald, for a Special Use Permit to construct a building to be used for a screen printing business on property he owns, located on the east side of Lee Jackson Highway (Route 11), just

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east of the intersection of Lee Jackson Highway (Route 11) and William McClure Lane in the Riverheads District.

Mr. Brian Fitzgerald stated that he would like to operate a screen printing business. He stated that he is currently living in Nelson County. He stated that he does not have any customers coming to the site. He stated that the items are shipped by UPS. He stated that there will not be a lot of traffic. He stated that the highway department has told him that he does not need to put in a commercial entrance if he keeps things the way it is now, does not have a sign, and does not have any employees. He stated that right now he does not want to have a bigger business than what he is asking for. He stated that his wife and daughter may help with the business. He stated that he has never had a complaint from the neighbors where he is located now. He stated that there will not be any noise or odor associated with this business.

Mr. Wilkinson stated that when VDOT said no sign, did they mean an advertising sign on Route 11?

Mr. Fitzgerald stated yes.

Mr. Coyner asked if this was his living?

Mr. Fitzgerald stated that he does this for a living.

Mr. Coyner asked if UPS would be shipping all of the items?

Mr. Fitzgerald stated yes. He stated that most of his customers are from the schools. He stated that he would deliver all of the local orders. He stated that he will not be able to have any customers coming to the site unless he puts in a commercial entrance. He stated that currently he does not want to put in the commercial entrance. He stated that he may want to do that in the future.

Vice Chairman Callison asked how long has the applicant been operating this business?

Mr. Fitzgerald stated that he started in 1997 part-time and full-time since 1999.

Vice Chairman Callison asked if the property goes to Route 11?

Mr. Fitzgerald stated that the property between their corner and Route 11 is owned by the state. He stated that is the old Route 11.

Mr. Wilkinson asked what the applicant would be doing with the waste products?

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Mr. Fitzgerald stated that there will be no waste. He stated that he has a dishwasher full of filters that cleans the ink. He stated that there are air filters and it would be all self-contained. He stated that there is nothing coming out of the building. He stated that he does have a bathroom in the building but there will not be any waste.

Mr. Wilkinson asked if he would be using half of the building for the business?

Mr. Fitzgerald stated yes. He stated part would be for his garage and part of the building for the business.

Mr. Coyner stated that the Board was at the site this morning. He asked if the applicant would be living on the site?

Mr. Fitzgerald stated that he will be building a house and the garage, if the permit is approved.

Chairman Swortzel stated that there is a nice view of the mountains.

Mr. Coyner asked if all of his customers are local?

Mr. Fitzgerald stated that they are mostly local. He stated that if they are not local the items are shipped. He stated that he is not on the internet.

Mr. Wilkinson stated that one of the conditions recommended by staff is that the house and garage be built together.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Anderson Daniel, 5980 Lee Jackson Highway, stated that he lives four doors down from the property. He stated that he rents from Libby and Edith Snyder. He stated that he opposes this permit. He stated that there will be more traffic, lower property values, and accumulation and disposal of chemicals used in the business. He stated that the Board should not approve this request. He stated that he has a petition that is signed from the other adjacent property owners. He would like the Board to take that in advisement. He stated that he does not want to live beside a commercial building. He stated that he would like to live in his personal house and enjoy the view. He stated that there will be chemicals involved. He stated that he has a construction business which is located in the City of Staunton and a manufacturing business in the Town of Craigsville. He stated that he chose to live in the country and he does not want to have a commercial operation in the area. He stated that there is land set aside for these

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types of businesses. He state that a screen printing business should not be placed in land that is zoned agriculture. He stated that he does not have a problem with a large garage but he does not want to have a commercial sign next to his driveway.

Mr. Coyner asked how long he lived in the area?

Mr. Daniel stated that he has lived in the area twelve (12) years. He stated that he has not built his house yet. He owns the property adjacent to the site.

Mr. Coyner stated that this is a quiet business.

Mr. Daniel stated that the business needs to be kept small. He stated that there should be no commercial sign or traffic associated with the business.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

Mr. Daniel Bowers, 246 Forest Springs Drive, Stuarts Draft, stated that he owns the farm behind him and was never notified of the public hearing. He stated that he never received the letter. He stated that he will be going back to his farm next year. He stated that there will be light pollution. He stated that he is adverse to the entire request. He stated that the entranceway was approved by the state. He stated that the applicant should have spoken with the neighbors beforehand. He stated that under Section 25-64 it states that the use should be compatible with the rural environment and away from residential development. He stated that he will be building a dwelling. He stated that once the business is established he could have a beauty shop or any other business. He stated that would be business property.

Mr. Wilkinson stated that staff did notify adjacent parcel 6E which is Daniel Lee Bowers, 246 Forest Springs Drive, Stuarts Draft, Virginia. He stated that if the Special Use Permit is granted, it will have specific stipulations that the applicant must follow. He stated that any increase in the permit, the applicant would need to go before the Board again.

Vice Chairman Callison asked if parcel 6J was part of Mr. Bowers' property at one time?

Mr. Bowers stated no.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

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There being none, Chairman Swortzel asked if Mr. Fitzgerald would like to speak in rebuttal?

Mr. Fitzgerald stated that there is not going to be any chemical waste. He stated that everything would be contained inside the building. He stated that there will be no light pollution. He stated that he will be as low impact as he could. He stated that he will not have any customer traffic associated with the business. He stated that if the Board does not approve this request to use part of the garage, he can operate the business out of his basement. He stated that he is already restricted that he cannot have any traffic.

Mr. Shreckhise asked how often would UPS come to the site?

Mr. Fitzgerald stated UPS would come to the site about two (2) or three (3) days a week.

Chairman Swortzel declared the public hearing closed. He stated that the Board visited this property this morning.

Mr. Shreckhise asked if the building will be directly adjacent to the house?

Mr. Wilkinson stated that the site plan shows the building would be behind the house. He stated that three (3) out of the six (6) that signed the petition are an adjacent property owner. He stated that two (2) of them spoke today.

Mr. Coyner asked if Mr. Daniel was able to speak with all of the adjacent property owners?

Mr. Daniel stated that the second one on the list, his father signed the petition but he did get phone confirmation that he would sign. He stated that Mr. Bowers did not sign, but he was here today speaking in opposition, but he did write his name on the list. He stated that the other adjacent property owner in the area was unavailable to sign.

Mr. Coyner stated that he does not know how much weight the petition would have because one of the names on the petition was not even the property owner. He stated that the building could be built without the Special Use Permit if the applicant did not want to run a business out of it. He moved that the request be approved with the following conditions:

Pre-Condition:

1. Obtain Building Permit for the home and garage.

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Operating Conditions:

1. Applicant be allowed to use up to a 30' x 36' area of the garage for the screen printing business.
2. No display of product outside.
3. All materials and finished goods be kept inside the 30' x 36' area of the garage.
4. No employees other than family members.
5. No signs.

Vice Chairman Callison seconded the motion, which carried unanimously.

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LARRY ALLANSON, AGENT FOR ALLANSON REAL ESTATE, LLC - VARIANCE

This being the date and time advertised to consider a request by Larry Allanson, agent for Allanson Real Estate, LLC, for a Variance from the front lot line requirements in order to construct an addition to the existing store on property he owns, located in the northern quadrant of the intersection of Churchville Road (Route 250) and Old Churchville Road (Route 840) in the Pastures District.

Mr. Larry Allanson stated that the Variance would be to construct a 12' x 25' 8" addition to the south side of the building for a "Daily Grind" coffee sales area with no seating, and a 12' x 23' addition to the rear of the building for restrooms and walk-in freezer. He stated that the bathroom already in the store would be taken out.

Chairman Swortzel asked if customers coming to the Daily Grind would be exited outside or through the present store?

Mr. Allanson stated that it would be exited through the current store. He stated that the triangle shape lot hinders him from any expansion of the business. He stated that behind him is the small stream. He stated that he has asked for other Variances in the past. He stated that this Variance is not as far out as the other Variances were. He stated that he requested a canopy ten (10) years ago.

Mr. Rosenberg asked if the applicant would be operating this as a franchise?

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Mr. Allanson stated yes. He stated that he is not leasing the space.

Ms. Brown asked if the parking would be tight?

Mr. Allanson stated that he would be adding a space to the right of the store and moving the handicapped space to the front of the store.

Ms. Brown asked who owns the cars that are in the picture?

Mr. Allanson stated that his employees park down there.

Ms. Brown asked how many vehicles can the applicant get down there?

Mr. Allanson stated five (5) vehicles.

Mr. Coyner asked how long has the applicant owned the business?

Mr. Allanson stated that he has owned this business for ten (10) years at the present location. He stated that he was located at another location for an additional ten (10) years.

Mr. Coyner stated that this business is located in a good location. He stated that this addition to the property is the last addition that could be done because the property is at a maximum.

Mr. Allanson stated that is fine.

Mr. Wilkinson stated that the drainfield in the back would prevent any expansion to the back of the property.

Mr. Allanson stated that the septic would be nine (9') feet from the actual addition. He stated that the addition would be next to that. He stated that there are no requirements from the distance to the building.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Vice Chairman Callison stated that anything Mr. Allanson wants to do would require a Variance. He stated that the site sketch shows all of the dimensions. He stated that this property has a history of Variances.

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Mr. Shreckhise moved that the Variance be approved in order to construct a 12' x 25' 8" addition to the south side of the building and a 12' x 23' addition to the rear of the building for restrooms and walk-in freezer as shown on the BZA site sketch.

Vice Chairman Callison seconded the motion, which carried unanimously.

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STAFF REPORT

- 06-33 Mason, Tanya
- 06-34 Nethken, Kenneth E.
- 06-35 Fuller, Ray L. or Donna M.
- 06-36 Ellinger, Jeffery L. or Kimberly W.

Mr. Wilkinson stated that staff has sent Ms. Mason a letter asking if SUP#06-33 is still active. He stated that staff sent Mr. Nethken SUP#06-34 a letter stating that the applicant has until June 2007 to reconstruct the building. He stated that SUP#06-35 and SUP#06-36 are both in compliance.

Mr. Wilkinson stated that the Board tabled the Leach request for a kennel for sixty (60) days. He stated that staff inspected the property and the applicant has constructed a privacy fence and a horse fence to contain the dogs. He stated that substantial work has been done on the property. He stated that Mr. Bailey could not get a count on the number of dogs because no one was home at the time of inspection. He stated that Mr. Bailey could count at least twenty-five (25) dogs outside. He stated that they are not sure how many dogs are inside. He stated that he will contact the applicant. He stated that this item will come before the Board in May. He stated that the Board will view the request next month.

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Mr. Rosenberg stated that he is in the process of filing ten (10) cases. He stated that they had hearings on four (4) of the cases. He stated that they were seeking the entry of default judgments on three (3) of those cases. He stated the fourth case, the defendant requested additional time to retain an attorney. He stated that they are still proceeding with the strategizing on Mr. Gochenour with regard to the use of his property in Crimora.

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There being no further business to come before the Board, the meeting was adjourned.

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Chairman

Secretary